

**D-R-A-F-T**  
**Town of Rockport Planning Board**  
**Wednesday, June 17, 2015 – 5:30 P.M.**  
**Rockport Opera House Downstairs Meeting Room**  
**Meeting Televised on Channel 22**

**Board Present:** Chair John Alexander, Tony Bates, Terrie MacKenzie, Thomas Murphy, James Ostheimer, and John Viehman

**Board Absent:** None

**Staff Present:** Planning and Development Director James Francomano, Videographer Tom Goodwin, and Recording Secretary Deborah Sealey

Chair John Alexander called the meeting to order at 5:33 P.M. He pointed out Warren Erickson, who was considering joining the Planning Board, in the audience.

**I. New Business**

**A.Schooner Bay Taxi – Application for Preliminary Site Plan Review, also requesting a finding by the Planning Board with respect to the proposed Change of Use on property located at 509 Rockland Street (Map 17 / Lot 9) in the Section 904 Residential zoning district.**

Chair Alexander said there would be an initial discussion of the proposed project, followed by a discussion of the possible issues and outcomes.

Schooner Bay Taxi owners Chris and Renita Merritt appeared before the board. Mr. Merritt said they hoped to move their business from the Rockland Industrial Park to 509 Rockland St. in Rockport, which they would also make their home. The business has 18 vehicles and operates 24/7. The Merritts planned to dispatch from the larger existing garage and perform minor repairs and detailing in the shop on the property.

Schooner Bay's employees worked 10-hour shifts and were busiest between the hours of 6 and 7 a.m. and 4 and 5 p.m. At night there were typically only five vehicles on the road. The company employed 30 people (including the owners), some of whom were seasonal and/or part-time. Schooner Bay has 3 handicap-accessible mini-vans.

Chair Alexander explained for the public that the PB members had just come from a site walk. Tony Bates received confirmation that repairs would only be done inside. John Viehman asked the applicants to explain what they did for Maine Care recipients. Mr. Merritt replied that most of their early runs were to methadone clinics in Bangor, Portland, and Auburn, etc. Schooner Bay also handled some medical emergency transportation. The company's 5-year contract with Maine Care would end in 2017 and renewal might bring the fleet up to 30 vehicles.

James Ostheimer asked if fares would change with a move to Rockport. Mr. Merritt replied that they might be lower in Camden and Rockport as a result of the move.

Mr. Viehman asked if vehicles would be washed outside, with concerns about the slope of the land. Mr. Merritt said the property had a septic system and well, but he had not yet had their capacities tested. Terri

MacKenzie said the board would need that information. Mr. Merritt said the company currently used the Park St. (Rockland) car wash and could continue to do so, especially in the winter, if necessary.

The chair moved on to zoning issues and Planner Jamie Francomano asked if this were an allowed use in a residential zone. He noted there were other commercial ventures in the neighborhood, either as a Home Occupation or as approved by the PB. This application said the taxi business was an “essential service”. Mr. Francomano said the first finding on the application would have to be whether it was a permitted use. If it were determined not to be permitted, the applicants could return in the future under another criteria; therefore, the PB should do a completeness review so the applicants would know what would be required.

The planner had contacted the town attorney, who was strongly against this interpretation. He had said it did not survive a close reading of the definition because transportation was not included under “essential services”. Mr. Francomano read aloud this definition from ordinance Section 800. He then read aloud the definition of “public utilities”, which included transportation. Ms. MacKenzie agreed this included transportation, but would have to go to the Zoning Board of Appeals for a special exception. Mr. Francomano said that as the ordinance is written now, the applicants would need ZBA approval and PB Site Plan Review approval. If the applicants received PB approval under “essential services”, they would skip the ZBA.

Mr. Francomano said the applicants had a closing date and a business decision to be made. Chair Alexander responded that it was not the PB’s responsibility to be concerned with timing. Thomas Murphy said the PB had, in the past, approved site plans contingent on ZBA approval.

*Chair Alexander opened public comment at 6:00 p.m.*

Molly Shaw strongly supported the application because the taxi company performed lots of essential work, such as picking up prescriptions for residents of Vinalhaven. She said there were more commercial than rural uses in that area.

*Chair Alexander closed public comment at 6:03 p.m.*

Mr. Murphy asked Mr. Merritt to elaborate on what services Schooner Bay Taxi provided. Mr. Merritt replied that they made lots of deliveries for the islands to the ferry terminal. This required coordination with the person authorized to carry particular items onto the ferry for specific island residents. Taxis were also utilized to take people, especially from Bartlett Woods and Stella Maris House, to medical appointments. Tony Bates said some of these visits were important because physical disabilities prevented some people from getting there on their own.

Chair Alexander asked the board if they agreed this was a special exception, saying he thought it flunked the “essential services” test. If it were a special exception, then it would need ZBA approval. He asked if the board wanted to treat it as a privately-owned public utility and the board agreed it did.

The chair went on to call the PB’s attention to things that would need to be addressed when the applicants came back to them. The PB turned to Section 1304. Mr. Viehman said the drainage from car washing would go down into the swale and the board might make it a contingency that cars could not be washed on-site unless some form of protection were put in. Mr. Alexander asked the applicants to take a good look at landscaping requirements because the long fence might need to be relieved by vegetation. Ms. MacKenzie asked if a vegetative fence might be possible. The chairman said it might help to have the neighbors come to the next meeting or at least send letters to the PB.

The board agreed there would be no need for a survey or contours on the plan. Tony Bates read aloud the list of items the PB would waive. Chair Alexander said they would not waive the drainage requirements.

Mr. Murphy asked Mr. Francomano to check the requirements of state agencies in that regard, such as washing cars inside. Will Gartley stated that the applicants would not need a storm water plan if they did not wash cars on site.

**ACTION:** Tony Bates made a motion, seconded by Thomas Murphy, that as drawn to our attention by the preliminary Site Plan Review, we waive those items requested to be waived, with the exception of storm water drainage.  
Carried 6-0-0

**B. Application by Andrea and Robert Lovell for a second amendment to the final plan for the Christie Subdivision: a minor modification to merge two lots on Harmony Lane, located off Porter Street in the Section 908 Rural zoning district.**

Engineer Will Gartley explained that the applicants owned 2 parcels on Harmony Lane: their house was on Lot 17-1 and they owned the directly adjacent Lot 17-7, which was part of the Christie Subdivision. The Lovells wanted to know if they could merge the two lots and remove the current line between them.

Mr. Gartley explained that Harmony Lane was used by three parcels, each of which had a ROW over it. PB members asked many questions regarding the location of the lots. Ms. MacKenzie said if approved, the ROW would then serve only 2 parcels rather than 3. In response to the chair's question as to the purpose of this change, the engineer said it would eliminate the setback required by the current lot line.

*Chair Alexander called for public comment at 6:37 p.m.*

Paul Lombardo, who owns Lot 17-6, said Lot 17-7 was part of the subdivision and removing the lot line would remove the lot from the subdivision. He said he wanted to get rid of the ROW from the lower end so it would be safer for his kids. Mr. Lombardo felt Harmony Lane should be a private drive. Chair Alexander responded that if the PB approved removal of the lot line it would no longer be in the subdivision and the ROW was granted as part of the subdivision.

Mr. Gartley said the PB could not remove a deeded access; furthermore, Harmony Lane was required to have a turnaround and could not be removed. Mr. Francomano said he knew no reason that a PB decision should affect private parties and said the neighbors should work this out. Chair Alexander concluded there were no grounds for the PB to remove the ROW. Mr. Lombardo explained further his point of view and the chair stated that the PB had no authority to attach any contingencies to the ROW.

Maggie Christie, also a neighbor, said she was in support of the Lovell's request.

*Chair Alexander closed the public comment at 6:50 p.m.*

Planner Francomano cited Section 9.1 of the Subdivision Regulations, which stated that if there was a subdivision revision that did not include additional lots or building units, the preliminary review could be skipped. Further, Section 9.3 said the scope of the review was limited to the proposed changes to the plan.

**ACTION:** Thomas Murphy made a motion, seconded by Tony Bates, to approve the application by Andrea and Robert Lovell for a second amendment to the final plan for the "Christie Subdivision", a minor modification proposed to merge two lots on Harmony Lane, located off Porter Street in the Section 908 Rural zoning district.  
Carried 6-0-0

Mr. Gartley said the applicants had also submitted a revised private way plan that would be recorded after eliminating the lot line. There was extended discussion of what this might mean to the subdivision,

though the PB was approving only a lot line change. Mr. Gartley said elimination of the lot line also removed the lot from the subdivision because it had merged with a dwelling lot that was not in the subdivision.

**ACTION:** Terrie MacKenzie made a motion, seconded by Tony Bates, to approve the first amended plan of a private way off Harmony Lane, dated 4/27/15, for Andrea and Robert Lovell in the Christie Subdivision.  
Carried 6-0-0

**C. Request by Barbara and Richard Krementz for voluntary architectural review of renovations proposed for their existing building at 23 Main Street (Map 29 / Lot 139).**

Richard Krementz said the front deck at 23 Main was decaying and the asphalt flooring shingles would begin leaking soon. The deck was only 3-1/2' wide, not large enough for a table. The Krementz' wanted to extend the deck outward by 1', which would still be less than their neighbor's deck over the sidewalk. They would install a new railing, clean up the rot in the timbers, and make a nicer place to enjoy the view over the harbor.

Tony Bates noted that the facing on the neighbor's deck was naturally weathered wood and asked if the Krementz's would stay with the same aesthetic presentation they had now. Mr. Krementz confirmed they would.

Ms. MacKenzie asked Mr. Francomano if the PB had the authority to approve adding another foot going further into Rockport's airspace. Mr. Francomano said it did not, but was being asked to make a recommendation to the Select Board, which would decide whether to approve the extension.

Chair Alexander directed the board to ordinance Section 1003 (Architectural Review Standards), based upon which the PB would make a finding and recommendation. He said the deck was an accessory structure being treated as an architectural element. Ms. MacKenzie reminded him that an accessory structure must be a separate building. She saw nothing in Section 1003 that drove the PB in any particular direction.

Mr. Viehman asked if the deck railings would remain the same. Mr. Krementz answered that they would not, and referred the board to the submitted photograph of the proposed railing. When Mr. Viehman asked about the color, the applicant said that had not yet been decided.

**ACTION:** Tony Bates made a motion, seconded by John Viehman, to recommend to the Select Board that approval be given to extend the existing deck at 23 Main Street by approximately 12", in an architectural style consistent with the photo submitted.  
Carried 6-0-0

Chair Alexander asked Planner Francomano to draft a letter containing the recommendation to the Select Board for his signature.

**II. Approval of Minutes of the 5/13/15 Meeting**

Tony Bates asked for a correction to a statement attributed to him.

**ACTION:** Tony Bates made a motion, seconded by Thomas Murphy, to accept the draft minutes as the final minutes of the meeting of 5/13/15, as amended.  
Carried 5-0-1 (John Viehman abstained)

### **III. Adjournment**

The meeting adjourned at approximately 7:20 P.M.

Respectfully submitted,

Deborah Sealey  
Recording Secretary